

ORAL ARGUMENT NOT YET SCHEDULED

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

HUNTSMAN PETROCHEMICAL
LLC,

Petitioner,

v.

No. 20-1414 (and consol. cases)

U.S. ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.

UNOPPOSED JOINT MOTION TO HOLD CASE IN ABEYANCE

Petitioners RISE St. James *et al.* (“Environmental Petitioners”)¹ and Petitioners American Chemistry Council and Huntsman Petrochemical LLC (“Industry Petitioners”) jointly move to hold this case in abeyance for sixty days, with a motion (or motions) to govern further proceedings due by January 12, 2020.

Counsel for the undersigned Petitioners have conferred with counsel for Respondent U.S. Environmental Protection Agency (“EPA” or “the agency”), who

¹ Environmental Petitioners are RISE St. James, Louisiana Bucket Brigade, Louisiana Environmental Action Network, Texas Environmental Justice Advocacy Services, Air Alliance Houston, Ohio Valley Environmental Coalition, Blue Ridge Environmental Defense League, Inc., Environmental Justice Health Alliance for Chemical Policy Reform, Environmental Integrity Project, Sierra Club, and Union of Concerned Scientists.

stated that EPA does not oppose the Court granting the relief requested by this motion. The grounds for this unopposed motion are as follows:

1. In three consolidated petitions for review (No. 20-1414 filed on Oct. 9, 2020, and Nos. 20-1417 and 20-1418 filed on October 13, 2020), Petitioners challenge the following regulation promulgated by EPA under the Clean Air Act: National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing Residual Risk and Technology Review; Final Rule, 85 Fed. Reg. 49,084 (Aug. 12, 2020) (“Final Rule”).

2. Petitioners also filed three administrative petitions with EPA on October 9 (Huntsman) and October 13 (American Chemistry Council and Environmental Petitioners) seeking reconsideration of the Final Rule.²

3. EPA has not yet acted on these administrative petitions. Petitioners seek a sixty-day temporary abeyance for this consolidated case. The parties believe this will allow at least an initial period of time for EPA to consider their petitions and for the parties to attempt to confer regarding the course of proceedings in this litigation, or seek additional time to do so if needed at that point. Petitioners believe that EPA action on one or more of the issues in such petitions is likely to hone and prepare the issues in this case for efficient, consolidated judicial review (and possibly remove some issues). Holding this case

² The Texas Commission on Environmental Quality also filed a petition with EPA.

in abeyance at this time will preserve the resources of the parties and may avoid unnecessary litigation on certain issues, in the event that EPA grants reconsideration and makes any changes to the Final Rule as each petition requests.³

4. This joint motion to hold this case in abeyance is filed without prejudice to any party's right to file a motion to reactivate its case and propose a motion to govern before the new deadline.

Therefore, for the foregoing reasons, and without opposition by any party, Petitioners jointly request that this Court hold this case in abeyance, with a motion or motions to govern further proceedings due by January 12, 2021.

³ Each undersigning party reserves all rights to oppose relief requested by opposing parties. Petitioners have filed unopposed motions to intervene as respondents in regard to other Petitioners' pending petitions for review. DN1870285 (Motion of RISE St. James *et al.*), DN1870374 (Motion of ACC), DN1870714 (Motion of Huntsman Petrochemical).

DATED: November 13, 2020

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT

Counsel hereby certifies, in accordance with Federal Rules of Appellate Procedure 32(g)(1) and 27(d)(2)(A), that the foregoing **Unopposed Joint Motion To Hold Case In Abeyance** contains 506 words, as counted by counsel's word processing system, and thus complies with the 5,200 word limit.

Further, this document complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5) & (a)(6) because this document has been prepared in a proportionally spaced typeface using **Microsoft Word 2010** using **size 14 Times New Roman** font.

DATED: November 13, 2020

/s/ Emma Cheuse
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